P 34F

App F IX 4

Previous References

1948

File No 7-48

Serial Nos 2

Later References

M-37-50(13/14)

GENERAL AND REVENUE SECRETARIAT

Serial Nos two

Part B for nil December 48

SUBJECT

Municipal appeals Nos 23 and 24 of 1947 on the file of the District Judge and station Bangalore

Letter No L 6747/Nil 7-48-2 dt 20 12 48

To

The president, Municipal Councils and Local Boards Bangalore

Vetoe the proposal

Serial No

From the President Municipal Commissioner Civil Station Bangalore
A 2, 2644/47 dated 26-5-48

States that the District Judge, Civil Station, Bangalore has passed orders in the Appeal case C N Dasappa v/s President Municipal Commissioner setting aside the refusal order of the President, Municipal Commission to construct a compound wall in Doddigunte and requests Govt to issue a stay order, and reverse the orders of the District Judge and confirm the order of the Municipality refusing licence

1) In October 1947 - the President-Municipal Commissioner, Civil Station, Bangalore refused to grant permission to construct a compound wall enclosing the area adjacent to premises No 65, Doddigunte, Bangalore and also to extend the said building premises by constructing a Verandah and a room
2) It is seen that the licence was refused on account of lack of adequate space for the proposed extension of the main building
The case having gone before the

Serial No

District Judge. Civil Station- Bangalore- a decree was passed to the effect that the Sanction applied for their construction be used to the appellants with only such specific directions, which we may deem fit to issue, but which are properly justifiable and warranted by the Building Bylaws

3) The President- Municipal Commission- Civil Station has requested the Govt to call for the proceedings under Section 143 (3) of the Bangalore Municipal Law and to revise the order of the Court and confirm the order of the Municipality refusing Sanction on the ground that the orders of the Court are against the Law and facts of the case

4) under Section 143 (3) of the Bangalore Municipal Law, Government can call for a report of the proceedings, in case of any illegality or material irregularity

5) It is not known if the Opinion of the Municipal Advocate has been obtained in the matter of getting a revision petition or taking the case in appeal, if the

Serial No

Commission / Issue of this grounds from the legal point of view

b) The facts now mentioned by the Municipal president have already been adverted to and commented upon by the Learned Judge

7) The Law section will be consulted ~~for~~ in the matter - i.e (Paras 4 & 5 P W D)

28/5 Br 29 Exes

8) The file will be Transferred to the Law Branch for further action

new regd from 31548

Law Secy W/C

9) 31/5

Law 31/5 from

LAW BRANCH 1-JUN-1948

Submitted

10) The file relates to an order passed by the District Judge, Civil Station, Bangalore Setting aside in Misc appeal No 237 of 1947-48 Setting aside the order of the President

NOTE—Co tn Sheet

Serial No

Municipal Commissioner, Civil Station Bangalore, refusing permission to construct a Compound Wall and extend the building No 65 Doddagunta, Bangalore The D J filed the above appeal under S 143 (1) of the Bangalore Municipal Law 1949

(2) The President, Municipal Commissioner Civil Station, has stated that the above order of the D J is against Law and facts of the case and has therefore requested that Govt may call for the proceedings under S 143 (3) of the said Law and revise the order of the Dist Judge

(3) According to S 143 (3) the said Law the Resident may call for the proceedings and revise the orders Resident means Govt and Govt may call for the proceedings and examine the case that is purely an administrative matter the file may perhaps be returned to the Dy L S G Branch

(4) The Question of grant of stay order is also for the administrative Secty to decide

(5) The order of the board

7190
ML

by the Govt is essential in matters of
law & the decision in the admiralty
matters ~~cases~~ essential-

for 2/6

Law Secy)

If I have read S143 (cl 3) it appears to me that the revisional powers vested in the Resident (now Governor) relate not to the orders passed on appeal by the District Judge but only to the original orders passed by the Commissioner. It refers to the illegality or material irregularity in the course of any such proceeding, notice or order as aforesaid. Thus obviously concerns the classes (a) (b) & (c) in sub-section 1 of S143. The proceedings notice or orders are the subjects of those sub-sections & the Resident's powers relate to the course of the proceedings, notice or orders which is done only by the Commissioner & not by the District Judge. In my opinion no appeal or reference is permissible for or against the orders of the D J & Govt cannot under law interfere with a revisional decision

16/6

Law Secy)
WC

14/6 for 14/6

SECRETARY LAW DEPARTMENT
7489
14 JUN 1948
GOVT OF KYDOPE

16 Please submit with a copy of the Municipal Law

Dy Municipal Law

16/6 for 16/6

17 Sent with a copy of the Bangalore Municipal Law 1952
16/6/52

7190

19) A copy of the Barcelona municipal laws sent to Advocate-General

18) In view of the Law Secy's above opinion the President, Inner Circle Area will be informed accordingly

Minister (Communications)

8/6/18

THE PRIME MINISTER FOR CITY MUNICIPALITIE AND MUZRAH
No 3026
Date 19-6-1948

20) From the file, I find that there are differences of opinions as to law point between the President and the Law Secretary I would therefore refer this to the Advocate-General for his opinion. On receipt of the same, I shall pass final orders. Pending the Stay order may issue PSHealth 27/6/48

In case there are any precedents where the Resident has interfered with the decisions of the Dt. Judges, the records relating to them may be sent PSHealth 27/6/48

21) 28/6

22) D/f letter attached 28/6/48

ML Appeal No 23 of 1947 in the Civil Court Bangalore - N Basappa Vs President ML Corpn Civil Station

23) Submitted with a draft for appl

for 29-6-48

24) As the revisional powers of Government in this behalf are not beyond doubt yet it is for consideration whether a stay order should be appropriate at this stage the draft is for orders

Rev[illegible] 30/6/48

25) The draft put up for approval I think it may not be appropriate to issue a stay order at this stage as suggested above - If approved the draft will be suitably amended & issued

[illegible]

THE MINISTER FOR CITY MUNICIPALITIES AND MUZRAH
No 38
Date 3-7- 1948

26) I do not agree with the Revenue Secretary in his preference to Division Bench in the circumstances. I wanted to know the opinion of the Advocate-Gen and any precedents in similar cases. If the Govt do not intervene, it is likely that the licensee may put up the building & the information required may be furnished immediately

XXX

3/7

3/7/48

XXX Portion above [illegible] 8/7/48

27) Though it do not appear from the [illegible] bearing receipt of information be noted & the date thereof may be kept in abeyance

1

Pandit
10/7/48

28) Issue as proposed

8/7

L

L 4139 Dt. 12-7-48.

To

The President,
Municipal Commissn
Civil Stn Bangalore

Enquires whether there are any precedents where the Hon'ble President has interfered with the decision of the District Judge Civil Stn Bangalore and requests him to send records if there are one or 2 such cases

29) With reference to the points in para 20 supra the Advocate General may in the meanwhile be consulted unofficially on the point whether [illegible]

Sept

7190 JML 935
Conf

U O No 20 D. 19748

143 48 have revisional powers in such cases
for 1947

30) Forwarded with compliments to the Advocate General in response for favour of opinion on the above point

U O No 22/148-49
dt 24 8-48
transmitted

Namachivayam
19748 for new register

See 143 (3) empowers the Resident to pass such orders as he thinks fit in respect of any such prohibition notice or order as aforesaid rendered by me. The words such and aforesaid occur 143 (1) in clauses (a), (b) and (2) respectively and they refer to the acts of the Commission therefore indicates that the Resident may revise the acts of the Commission. So can be finished by way of appeal under See 143 (3)

32) See 143 (3) says that no such prohibition notice or order shall be liable to be made abbeal Post as See 143 (3) occurs later the powers of the Resident remain no further under

25/8

33) At least can be said that the powers of the Dished Judge and the Resident are concurrent and the Resident has no power of cale in question the Orders of the Dished Judge

AG 23/8/48

Municipal Appeal No 23 of 1947
7190 on the file of the District Court
5935 Civil Station, Bangalore N Dhoraiswamy
the President MC Commission

34) The opinion of the Advocate General as set forth in paras 31 to 33 is for perusal with reference to orders in para 26 supra

35) As regards the precedents the latest letter of the President MC Commission (Page 1) is self-explanatory Submitted for orders

27/8/47 For orders with refce to the minute of the Minister for City Affairs in para 20 to 26 supra

Recd 27/8/47 For orders

Secretary
C Mudaliar

THE MINISTER FOR CITY
MUNICIPAL AFFAIRS AND MUZRAI
No 822
Dt 28 AUG 1947

27/8/47

agree with the views of the Law Secretary The advocate general also does not say that the Court could interfere with the orders passed by the Dist Judge & therefore

435/mil

Tiwari
9/12/48

11/12

11/12/48

Left letter of the procedure may be sent as
it stands for approval

17/12/48

17/12/48

To
The procedure may be sent
No. L 6747/mil 7-48-2 dt 20 12 48
Vetoes the proposal

23-12-48

No A2-2644/47 Office of the Municipal Commission,
Civil Station, Bangalore.
dated the 24th May 1948

From

The President, Municipal Commission,
Civil Station, Bangalore

To

The Secretary to the
Government of His Highness the Maharaja of Mysore,
Revenue Department, BANGALORE

Municipal Appeal No 23 of 1947 on the file of the District Court - Dasappa Vs President, Municipal Commission

---

Sir,

I have the honour to state that the Municipal Commission at its meeting held on the 30th April 1943, decided that a reference be made to the Government against the order of the District Judge in the Municipal appeal referred to above A copy of the resolution as well as of the order of the District Judg are enclosed

Encs I & II

2 This is an appeal which arose out of the President, Municipal Commission's order refusing sanction

(1) to construct a room and a verandah in front of premises No 65, Doddigunta, under section 83(1)(a) and (b) of the Bangalore Municipal Law and rule 6 of Bye-law No 2, Chapter III, and

(2) to construct a compound wall enclosing the area adjacent to the premises, under bye-law No 2, Chapter III, clauses 12(2) and (3)

3 For the reasons statedbelow I submit that the order of the learned District Judge is against law and the facts of the case

(1) It was after very careful consideration and inspection of the spot in question that the Health Committee refused sanction A copy of its proceedings refusing sanction is enclosed

Enc III

(2) Having virtually held that the room and the verandah for the construction of which the party applied contravenes the provisions of Bye-law No 2 (6), the learned Judge erred in setting aside the order of the refusal

(3) The order of the learned Judge was wrong in that it states that the Municipality had only to give directions to set back the proposed construction and not to refuse it entirely Section 83(1) does not limit the powers of the municipality to the

extent indicated in the order

4) Moreover the learned Judge failed to see that the proposed construction was only an extension of the old building and as such it was not possible to give directions to set it back

(5) The learned Judge has not fully appreciated the position in regard to the proposed compound wall

(6) The land on which the compound wall is proposed to be constructed originally belonged to the neighbouring owner, who if he had applied for the construction of the said wall would have been refused sanction as it would offend chapter III, Bye-law No 2 (12) (2) (i)

(7) The learned Judge was wrong in finding that the petitioner was trying to uphold the rights of a private party

(8) The learned Judge ought to have seen that the party by purchasing a portion of the land belonging to the original owner was attempting to do a thing which the original owner could not have done and such an attempt if allowed would lead to an evasion of the building laws

(9) The proviso referred to by the learned Judge has no reference to the facts of the case as that relates only to a portico which clearly leaves the sides open while a compound wall would shut out light and air

4 In the circumstances I request that the Government may be pleased to call for the proceedings under Section 143(3) of the Bangalore Municipal Law and revise the order of the learned Judge and confirm the order of the Municipality refusing sanction

5 I also request that a stay of the order of the learned Judge be ordered pending disposal of this petition as the party is likely to proceed with the work on the basis of the learned Judge's order

I have the honour to be,
Sir,
Your most obedient servant,

QD Chitaranjan
24/5
President, C

MVL
24-5-43

24/5/43

Enc I.

Municipal Commission's resolution dated the 30th April 1943
(Ordinary meeting)

---

20 Consideration of the question of filing a revision petition against the order of the District Judge, in Muncipal Appeal No 23 of 1947 (N Dasappa Vs President, Municipal Commission) setting aside the refusal order of the President, Municipal Commission, to construct a compound wall adjacent to premises No 65, Doddigunta

Recommended

Mr Nagappa pointed out that there was no question of revision petition under section 143(3) of the B L which provided that the Government might call for a report of the proceedings in case of any illegality or meterial irregularity He added that the President, Municipal Commission, himself could by an official reference bring it to the notice of the Government and seek their orders The President added that in case a hearing was given the Municipal Advocate will have to appear The Commission agreed to these

Resolved that a reference be made to the Government against the order of the District Judge, in Municipal Appeal No 23/1947 (N Dasappa Vs President, Municipal Commission) setting aside the refusal order of the President, Municipal Commission, to constructing a compound wall adjacent to premises No 65, Doddigunta

(C R No 2644/1947)

(Sd) N Puttarangaswamy,
President, M C

MVL
24-5-48

* Copy

24/5/48 President, M C

Enc III

Proceedings of the Health Committee meeting held on the 1st October 1947

---

3 Petition dated the 4th September 1947, from Mr Dasappa for permission to construct a verandah, an office room and compound wall at premises No 65, Doddigunta, as per plans

Sanction is not recommended for the extension of the main building for want of adequate space

The proposed compound wall on the west will sub-divide the adjoining property leaving 15' x 80' portion on the west and will also affect severely the light and air of the adjoining building Hence sanction not recommended

(Sd) L R Goverdhan,
Chairman,
Health Committee

Copy

President, M C

MVI
24-5-48

BEFORE THE DISTRICT JUDGE

CIVIL STATION, BANGALORE

Thursday th 18th day of March 1948

Present Sri Ramakrishna Iyengar, B A LL B

District Judge

Municipal Appeal No 23 of 1947

Appellant	Respondent
M Dasappa	President
	Municipal Commission
	Civil station Bangalore

O R D E R

This is an appeal under section 113 of the Bangalore Municipal Law against the order of the respondent President Municipal Commission, Civil Station Bangalore dated 9 10-1947 refusing permission to construct a compound wall enclosing the area adjacent to the premises No 60 Doddapeta Bangalore and also to extend the said building premises by construction of verandah and a room

On the grounds set forth in the petition applied for

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was refused by the respondent as regards the construc
tion over verandah and a room in front of the building
was stated in the order to be "lack of adequate space
for the proposed extension of the said building" and
in the objection statement filed by the respondent
through Counsel in the appeal on 2-12-1947 the
adequate space was referred to as the one required by
the building rules. The Counsel was however asked
specify under what particular provision the adequate
space was prescribed, and what exactly it was
and on 17-12-1948 he had specified it in the objection
statement to be under section 83(1)(a)(b) of the
Bangalore Municipal Law and clause 6 of Bye-law 12 of
Chapter III. Clauses (a) and (b) of sub-section(1)
of Section 83 of the Bangalore Municipal Law refer to
written directions which the Commissioner may deem fit to
issue with reference to the proposed building in
respect of (a) the free passage or way in front of the

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building and (b) the space to be left about the building to secure the free circulation of air and facilitate scavenging and for the prevention of fire and admittedly Clause (b) does not apply to the case since the additional building proposed by the appellant is in front of the main building and is by way of a verandah and a room as shown in the plan that he had submitted to the respondent so that only clause (a) remains and we have to see what is the direction that could have been deemed fit for the respondent to issue in that behalf and for this purpose clause 6 of Bye-law No 2 Chapter III was sought to be relied on by the learned Counsel for the respondent and Clause 6 is headed Location of the building and states that in the new building shall the foundation of the external walls thereof be located less than 1½ feet from the edge of the street existing the same so that the only direction that

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per institute or any respondent, to issue under this
Byelaw while sanctioning the proposed additional
construction in front of the appellant's existing
building, viz. that the front elevation of the external
wall of the proposed building along the street should
be located not less than 1½ feet from the edge of the
B street including the drain but there was no justi-
cation for refusing altogether the sanction unconditiona-
lly for the construction of the proposed building as
the respondent had done.

3. The other ground urged in support of the
appellant for the construction of the compound wall
on the west that the reason for refusing the sanction
for the same stated in the order of refusal
issued by the respondent was that "the proposed
compound wall on the west will sub-divide
adjoining property having 30' x 30' portion of the
east and will also affect the light and air of the

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adjoining buildings and this reason was also repeated in the objection statement filed in the appeal on behalf of the respondent by Counsel. He was however asked to specify what is the particular building provision in the Bye-laws under which for the alleged breach of the condition for the construction of the compound wall was refused to the appellant and on 17-6-1948 he stated by way of addition to the objection statement that it was by law No. 6 Chapter III Clause 12(a) & (3) Now of Sub-clause A(2) and (b) of Clause 12 & 3 by law No. 6 relied on by the respondent, sub-clause (a) states that the condition prescribed by Sub-rule (1) of Rule 12 of the Bye-laws should be deemed to be satisfied if the doors windows and ventilators referred to therein are kept open into the exterior air into a verandah which opens for the whole of its length to an open space of width of not less than 8 feet and is

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following subrule (3) states that the open space referred to above should be free and be kept free from any erection thereon and should be open to the sky but that this condition is not inexorable, provided the purpose or object in view is observed is clear from the provision added to the sub-clause or sub-rule (3) that a portico of reasonable dimensions may be treated a part of the open space for the purposes of these sub-rules and these sub-clauses or sub-sections are intended only to subserve sub-rule(1) of which clause or rule is one of the by laws which specify the dimensions of the windows or ventilators to be kept to a room which should be open directly into the external air and be of a sufficient area of not less than 12½ per cent of the floor area of the room or 12 sq ft whichever is greater and that where any door or doors of such room also directly open into the external air it is said that it would be

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sufficient if the total superficial area of such door or doors and of the window and ventilators together is not less than 20 per cent of the floor area of the room In the present case, neither Clause or Rule 12 nor any of its sub-rules or sub clauses have application to the appellant's proposed building since what he wishes to construct is only a compound wall but curiously enough the respondent in refusing the sanction to him for constructing the compound wall had in mind the application of the provisions of these bylaws to the premises already existing of the neighbour of the appellant on the western side west of the compound wall proposed to be erected by the appellant and the respondent's reason concerned the interests of such neighbour as to how the compound wall would affect the light and air to that neighbour's existing building I might only say that the respondent Municipal Comission

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need to have concerned itself with the rights of private parties such as the neighbours of the appellant for sanction of a proposed building as such neighbours should be left to take care of their rights in Civil Courts if they are so minded and in this connection I need only refer to the observations of Malik J in A I R 1943 Allahabad 393 which are as follows

"When an application for sanction is made it is the duty of the Board to see whether the proposed constructions in any way contravene the Building Bye-laws If they do not it is the duty of the Board to grant the sanction The legislature however never intended that the Municipal Boards should assume the functions of the Civil Courts and the duty to mix up the jurisdiction to go into questions of private rights and grant sanction on the view of the

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In the present case even from the point of view of the Sub-rules ( ) and (3) I fail to see how by the erection of the proposed compound wall by the appellant the neighbour's building can be said to become contrary to the prescribed Byelaws for as I have already stated the whole object and purpose of rule 12 of the Byelaws is to see that rooms to be constructed for which sanction is obtained have doors windows and ventilators of not less than certain superficial proportion to the floor area of a room opening directly into the external air and to open space to provide such external air need not necessarily be kept free from any erection on it even if it should be less than 8 feet in width but only the erection may not be of such a character as to shut out altogether the access of external air since in the proviso to sub-rule (3) portico of reasonable dimensions even within less than 8 feet

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lon the length of the room may b tr ated as part of the open space for the purpose of th sesubrules mous when it is conceded by the proviso that ev n a portico immediately attached to and joining the room could be treated as part of th open space for providing the prescribed proportion of external air through windows or ventilators in the room it is really inconceivable how a are compound wall which could have no covering over it as that of a portico to shut out th external air to any extent whatever could at all be said to be any objectionable structure even within the meaning and purpose of any of th sub rules of rule 12 of th- building Bylaw I therefore find that here was no good or sufficient reason whatever for the respondent to r fuse sanction applied for by th appellant for th construction of the proposed compound wall a compound wall

4 In the result I allow th appeal and setting

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...ui e the order of the respondent for fusing permis-
sion to he appellant for a construction of the
proposed additional structure and compound wall
direct that the sanction for their construction
be issued to the appellant with only such specific
directions which it may be deemed fit to issue but
which are properly justifiable and warranted by
the Building Bylaws The appellant will also get
his costs and Counsel's fees which I fix at Rs 10/-

Dictated to the stenographer transcribed by him
and pronounced by me in this 18th day of March 1943

Sd/- B Rangarajan Iyengar,
District Judge

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Secretariat

DRAFT

L 439

12/7/48

To

The President Municipal Commission Civil Station Bangalore

Docke Abstract

Municipal Appeal No 23 of 1947 on the file of the District Court, Civil Station Bangalore N Dasappa Vs President, Mc Commn, Civil Station Bangalore

Sir

Sir

With reference to your letter No A2-2644/47 dated the 24th May 1948 on the above subject I am directed to ~~request to~~ enquire be informed whether there are any precedents where the Hon'ble the Resident had interfered with the decision of the District Judge Civil Station Bangalore

If more are ~~and if so~~ The records ~~to~~ one or two ~~to~~ Thereto may be relating cases

forwarded for reference

2 I am to ~~state that~~

pending final order of
Govt in the matter Govt
direct that the order of the
learned District Judge passed
in the above-mentioned case
be stayed and the fact of the
same may be intimated
to Sen N Dasappa, the appellant
in Municipal Appeal No 23 of 1947
on the file of the District Judge
Civil Station Bangalore

I have Etc

8 12/7

for Secy to Govt
Revenue Dept
29-6-48

~~Extract of para 2 of the letter~~
~~Copy of the above~~ is forwarded
with compliments to the District
Judge Civil Station Bdore for
info

for Secy to Govt
29-6

135

C.F 74

Routine Notes

[To be used only for notes requisitions etc not intended for permanent record]

LC 39/D 13 8 48

Forwarded with

Compliments to the

Advocate General in regard

to further of queries on

the subject in continuation

of this office

No dated 13 7 48,

B o

Secretariat

for necessary action

12/8/48

Returned to

Returned with the main file, in which

opinion has been furnished

23/8/48

No 108/48-49

dt 13 8 48

25/8

very early

No 23/48-49

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Routine Notes

[To be used only for notes requisitions etc , not intended for permanent record]

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GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

eral and R-

No A 2-2644/47 with three fols

Office of the Municipal Commission,
Civil Station, Bangalore,
dated the 28th July 1948

GENERAL & REVENUE SECRETARIAT
935
31 JUL 1948
REVENUE BRANCH

From

The President, Municipal Commission
Civil Station, Bangalore

To

The Secretary to the
Government of His Highness the Maharaja of Mysore,
Revenue Department,
BANGALORE

Sir,

Subject:- Municipal Appeal No 23 of 1947 on the file of the District Court, Civil Station, Bangalore - N. Dasappa Vs President, Municipal Commission -
Reference:- Correspondence ending with your letter No I 439 dated the 12th July 1943

7190

With reference to the above letter, I have the honour to inform you that there are no precedents where the Hon'ble the Resident had interfered under Section 143(3) of the Bangalore Municipal Law with the decision of the District Judge, Civil Station, Bangalore, although in two cases revision petitions were preferred in recent years The records relating to these two cases are enclosed for reference and favour of return (R Dis 1507/40 and R Dis 997/41

Janab Mirza M Kazim
Vs
President, Municipal Commission

Sri Prakas Vs
President, Municipal Commission

2 There is however one case wherein the Hon'ble the Resident revised the order of the District Judge on a reference made by the Presi Municipal Commission, under section 50(2) Banga municipal Law The connected papers are enclosed for perusal and favour of return (R Dis C 1329/40) Although this case related to a reference under section 50, it will serve as a precedent for the case now under consideration particularly since the wording of sub-section (3) of section 143 and

Sri C R Nagappa
Vs
President, Municipal Commission

P T O

WD 0973—GPB—100 pad f 10 000 h t ea h—23-10 42

of sub-section (2) of section 50 is identical

I have the honour to
Sir,
Your most obedient serv

President, M C

kVL
23-7-43

No 1 2-2644/47 Office of the Municipal Commission,
Civil Station, Bangalore,
dated the 6th November 1943

From

The President, Municipal Commission,
Civil Station, Bangalore

To

The Secretary to the
Government of His Highness the Maharaja of Mysore,
Revenue Department, Bangalore.

GENERAL SECRETARIAT RECEIVED 11 NOV 1948 3562 MUNICIPAL BRANCH

Sir,

Subject - Municipal Appeal No 23/47 on the file of the District Court, Civil Station, Bangalore, N Dasappa Vs Municipal Commission, and
(2) Municipal Appeal No 24 of the same Court, Suryakanthamma Vs Municipal Commission

Reference - Your letter No L 3164 dated the 24th September 1943

I invite a kind reference to your letter quoted above and request the favour of early orders

Yours faithfully,

President, M. C

THE MINISTER FOR CITY MUNICIPALITIES AND MUZRAI
No
Date 22-11- 1948

5-11-43

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

L67(1) Jud 7-48-2
43 books

General and Revenue Secretariat

Dated Bangalore 20/12 *1948*

FROM

The Secretary to the Governm nt of His Highness the Maharaja of Mysore
General Department

To

The President,
Municipal Commission,
Civil Station, Bangalore

SUBJECT Municipal appeals Nos 23 and 24 of 1947 on the file of the District Court, Civil Station, Bangalore

Sir,

With reference to the correspondence ending with your letter No A2-2644/47 dated 6th November 1948 and your letter No A2 835/47 dated 24th May 1948 on the above subject, I am directed to state that section 143(3) empowers the Resident (Now the Government of Mysore) to call for a report of the proceedings in any case in which it appears that there has been an illegality or material irregularity in the issue of any such prohibition, notice or order by or from the Commission under the provisions of Section 143(1) Clauses (a) and (b) and (c) and pass such orders thereon as may be thought fit The words "Prohibition", "Notice" and "Order" occurring in Section 142(1) clauses (a),(b) and (c) respectively refer to the acts of the Commission Hence the Resident (Now the Mysore Goverenment) may revise the acts of the Commission and similarly the District Judge also by way of appeal under clause (2) of the said Section a power engoyed almost concurrerly by both the authorities

Section 143(2) lays down that no such prohibition, notice or order shall be liable to be called in question otherwise than by such appeal and notwithstanding this, the power of the Government to call for a report of the proceedings etc , remains so far as it refers to the acts of the Commission in view of the sub-section (3) occurring later, but rot to call in question or revise the orders passed by the District Judge Government therefore regret that they cannot interfere in the matter at this stage

The records are herewith returned

1) R Dis 1507/1946)
2) R Dis 997/1946)
3) R Dis C 1329/46)

The records are herewith returned

Yours faithfully,

For Secretary to Government,
General Department

No 4 6747 VV
and 3 books MH 7-48-2
To 20-12-48

The Prondent Mc
Cuc Station - B'lore

Subject — Municipal appeals Nos 23
and 24 of 1947 on the file of the District
Court - Cuc Station ore
~~Samappa Vs~~ Prendath Mc

Sir,

With Reference to the
Correspondence ending with your
Letter No A 2 26644/47 dated
6 11 48) on the above Subject
I am directed to State that Sec
143 (3) empowers the Rendent (now
the Govt of Mysore) to call for a Report
of the proceedings in any case in
which it appears ~~to them~~ that
there has been an illegality or
material irregularity in the issue of
any such protection notice or order
by the Commissioner and the provisions
of Sec 143 () clauses (a) (b) and (c) and

and your Letter No A 2 835/47 of 24 s us

pass such orders thereon as may be
~~brought~~ fit The words prohibition
"notice and order occurring see 143(1)
clauses (a) (b) and (c) respectively
refers to the acts of the Commissioner Hence
the Resident (now the Mysore Govt) may
revise the acts of the Commissioner, and similarly
also the District Judge also by way of
appeal under cl (2) of the said Section,
a power ~~so to stay~~ enjoyed ~~by the~~ almost
Concurrently by both the authorities
See 143(2) says down that no such
prohibition notice or order shall be
liable to be called in question otherwise
than by such appeal and notwithstanding
this the power of the Govt to
call for a report of the proceedings &c.
remains ~~of~~ the Collector occupying station,
but not to call in question or
revise the orders ~~of the~~ passed
by the District Judge Government
therefore regret that this Court
cannot interfere in the matter at this stage

So far as
it refers to
the acts of the
Commissioner as an
authority

The records are
herewith returned

Yours faithfully

for

for General Secy to Govt

17/12/48

*Narayan

(1) R Dis 1507/1946
(2) R Dis 997/46
(3) R Dis & 1329/46